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August 25, 2020

**Via ECF**

Honorable Lewis J. Liman  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

***Re: HC2, Inc. v. Andrew Delaney  
Civil Action No. 20-cv-03178-LJL***

Dear Judge Liman:

This firm represents HC2, Inc. Please accept this short letter in further support of HC2's request for telephone conference and in response to Defendant's letter in opposition. Plaintiff submits this response in light of Defendant's selective recitation of the events leading to Plaintiff's request for a conference.

On Thursday, August 20, 2020, the undersigned emailed counsel for Defendant to indicate a belief that depositions may be premature and that HC2 desired to adjourn Defendant's August 25, 2020 deposition in return for adjournment of the September 2, 2020 Rule 30(b)(6) deposition of HC2's Chief Executive Officer, "on the subject of Defendant's counterclaim." Defendant did not respond. Instead, the next morning, August 21, 2020, Defendant's counsel emailed me two additional Rule 30(b)(6) notices of deposition for HC2 witnesses "on the subject of Defendant's counterclaim." One 30(b)(6) deposition notice is for September 12, 2020, a Saturday. The other is for September 14, 2020, the fact deposition deadline. Defendant did not mention or respond to my August 20<sup>th</sup> email.

Therefore, at 7:40 a.m. on August 24, 2020, the next business day, I wrote to Defendant's counsel that I was adjourning Mr. Delaney's deposition until September 9, 2020, and that I intended to seek a ruling extending the discovery schedule. I noted that Defendant's counsel never responded to my August 20, 2020 email, and that I welcomed his response before I filed a letter with this Court. Shortly thereafter, Defendant's counsel wrote back to me apologizing that he had missed my August 20<sup>th</sup> email because he was on vacation. He vowed to discuss scheduling with his client. Unfortunately, shortly after that, Defendant indicated that he would not vacillate from the dates set in his deposition notices and expressed no intent to cooperate in scheduling.

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**Honorable Lewis J. Liman**

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Plaintiff desires to discuss a revised schedule to hold depositions that allows for decision of whether Defendant's amended counterclaim should be dismissed or not, as that has a direct bearing on the scope of depositions. However, even if the Court was not inclined to extend the deposition deadline to allow for a decision, Defendant has noticed three Rule 30(b)(6) depositions, one of which impermissibly falls on a Saturday. Three Rule 30(b)(6) depositions is not permissible, and Defendant's apparent lack of intent to cooperate in scheduling depositions requires the Court's intervention.

Therefore, Plaintiff has brought these issues to the Court's attention forthwith, and respectfully reiterates its request for a telephone conference.

We thank the Court for its consideration of this request.

Respectfully Submitted,

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

*s/ Michael Nacchio*

Michael Nacchio